

## FIG.NET HOG PURCHASE AND SUPPLY AGREEMENT

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ ("Commencement Date") by and between Excel Corporation, a Delaware corporation, with principal mailing address at PO. Box 2519, Wichita, Kansas, 67201 (hereinafter referred to as "Excel") and \_\_\_\_\_

(Name)

(Address) \_\_\_\_\_

(City) \_\_\_\_\_

(State) \_\_\_\_\_

(Zip Code) \_\_\_\_\_

(Phone) \_\_\_\_\_

\_\_\_\_\_  
(Social Security or Employer Identification Number).

(Hereinafter referred to as "Finisher").

WHEREAS, Finisher is a member of the Pig.Net Alliance of independent swine producers, and

WHEREAS, Finisher may wish to forward contract with Excel for the sale of market hogs that were finished from weaner pigs by farrowers in the Pig.Net Alliance, and Excel may wish to forward contract with Finisher for such market hogs.

NOW THEREFORE, the parties hereby agree as follows:

1. For so long as Finisher is a member of the Pig.Net Alliance, the parties may enter into forward contracts for the sale and purchase of market hogs that Finisher purchased and raised from farrowers in the Pig.Net Alliance. Such farrowers are listed in Exhibit A, which Excel may amend from time-to-time in its discretion.
2. Excel and Finisher shall enter into individual transactions pursuant to the terms and conditions of the Hog Purchase Confirmation and Contract that is set forth in Exhibit B, as amended by this Agreement. Excel may modify the Hog Purchase Confirmation and Contract from time-to-time in its discretion. Excel's purchase of market hogs will also be subject to Excel's carcass merit program. This program determines whether the Finisher will be paid a premium above, or a discount below, the Contract Price (as set forth in Exhibit B), the Minimum Target Price (as defined in Section 4 below), or the Maximum Target Price (as defined in Section 4 below). The carcass merit program is currently based on the hot carcass weight and the lean percentage of the market hog. The carcass merit program is attached hereto as Exhibit C; provided, however, that Excel may change the carcass merit program from time

to time in its discretion. The premium or discount under the carcass merit program is described as the "Meat Premium" in the Pig.Net Base Matrix attached hereto as Exhibit D.

3. If Finisher notifies Excel of its intent to enter into a forward contract with Excel at the Contract Price by noon on the Friday prior to the scheduled week of delivery of weaner pigs to Finisher, then Excel will enter into a forward contract with Finisher at the Contract Price on the Monday of the scheduled week of delivery of weaner pigs to Finisher. This forward contract will be for the delivery of market hogs to Excel twenty-three (23) to twenty-six (26) weeks thereafter subject to the Minimum Target Price and the Maximum Target Price (as defined in Section 4 below). The Contract Price is the Merit Price in the Pig.Net Base Matrix less the Predicted Merit Basis in the Pig.Net Base Matrix. Finisher must sell at least 20,000 lbs. of market hogs per forward contract transaction and in increments of 1,000 pounds thereafter.

The "Maximum Target Price" means the Meat Price in the Pig.Net Base Matrix that correlates to a \$45 weaner pig price as determined on the Monday of the scheduled week of delivery of the weaner pigs to Finisher less the Predicted Meat Basis in the Pig.Net Base Matrix. The "Minimum Target Price" means the Meat Price in the Pig.Net Base Matrix that correlates to a \$20 weaner pig price as determined on the Monday of the scheduled week of delivery of the weaner pigs to the Finisher less the Predicted Meat Basis in the Pig.Net Base Matrix. Excel may amend the Pig.Net Base Matrix from time-to-time in its discretion if any of the projections in the Pig.Net Base Matrix are found to be inaccurate.

4. If Finisher fails to provide such notification, Excel will forward contract with Finisher using its standard forward contract program and the Pig.Net Base Matrix; provided, however, that the Minimum Target Price and the Maximum Target Price shall not apply.

5. If farrowers deliver more than the Annual Capacity of weaner pigs (prorated on a four-week rolling average basis) to Finisher and the Finisher, in turn, delivers more than the Annual Capacity of market hogs to Excel (prorated on a four-week rolling average basis), then Excel will purchase such excess market hogs in accordance with Excel's standard forward contract program; provided, however, that such excess market hogs will not be subject to the Pig.Net Base Matrix, the Maximum Target Price, or the Minimum Target. "Annual Capacity" means means farrower's commitment to produce \_\_\_\_\_ weaner pigs for sale to Finishers each Agreement Year plus or minus ten-percent (10%). The Agreement Year means the twelve month period commencing on \_\_\_\_\_, 200\_ and each anniversary thereof.

6. Exhibits A, B, C, and D are incorporated herein by reference. In the event of a conflict between the terms and conditions of this Agreement and the terms and conditions of Exhibits A, B, C, and D, the terms and conditions of this Agreement shall govern.

7. Excel and Finisher intend and agree that the sale and purchase date for the market hogs is the date that the market hogs are physically delivered to Excel. The final determination of the purchase price shall be made after slaughter.

8. Finisher agrees to comply with the following standards:

a. Raise market hogs in facilities that meet the current accepted standards for raising improved genetic animals under Excel-approved nutrition and management programs for maximization of quality lean meat.

b. Maintain at least the highest quality assurance level in affect at any given time as set by the National Pork Producers Council (currently Level III).

c. Maintain all drug withdrawals at levels that allow Excel to sell pork products in all export markets in which it is currently doing, or may begin to do, business in. Finisher agrees to withdraw all oral tetracycline products a minimum of two (2) weeks prior to slaughter.

d. Maintain the highest health standards via proper ventilation for the market hogs prior to delivery, good vermin control, thorough cleaning and disinfecting, limited access for visitors, and necessary and documented immunizations.

e. Handle the market hogs in such a way as to minimize the damage to muscle tissue through bruising, improper injections, or other invasive procedures.

f. Comply with the following meat quality standards:

i. A minimum average pH reading, taken by Excel prior to carcass chilling, of 6.1 for any one lot and seventy-five percent of the Hogs in any one lot having a minimum pH reading that is equal to or greater than one standard deviation below the slaughter plant average on the day the hogs are slaughtered. Excel may use a different method of measuring compliance with such standards without prior notice to Producer.

ii. A minimum Minolta reading of 49.4 or less, or as amended from time to time by Excel.

iii. A minimum average lean percentage of 50% as measured by the Fat-O-Meter or other device that Excel may subsequently use to measure the lean percentage for use in the carcass merit program.

iv. Notwithstanding the foregoing, Excel may use a different method of measuring compliance with such meat quality standards without prior notice to Producer.

If, during the term of this Agreement, Excel notifies Finisher in writing that, in its good faith belief, the Finisher no longer produces market hogs that meet the Standards

in any material respect, and such notice describes said deficiencies with reasonable specificity (the "Substandard Report"), then Finisher will have until six (6) months after its receipt of the Substandard Report to (a) correct any deficiencies described in Substandard Report which remain in existence, and (b) bring its production up to the Standards. If Finisher fails to correct such deficiencies and bring its production up to Standards within such six (6) month period, then Excel shall have the right to terminate this Agreement upon thirty (30) days' written notice to Finisher if such notice is delivered before all such deficiencies have been corrected. In addition, no carcass merit program premiums will be paid for market hogs delivered after the date of the Substandard Report until such time as such deficiencies have been fully corrected. If Finisher disputes the existence of any deficiency described in a Substandard Report, Finisher and Excel shall meet within fifteen (15) working days after receipt of the Substandard Report by Finisher to resolve the dispute. If both parties agree (or it is otherwise determined) that none of the deficiencies described in the Substandard Report were in existence at the time the Substandard Report was issued, then the carcass merit program premiums will be immediately payable with respect to all. Market hogs delivered since the date of the Substandard Report as if such Substandard Report had never been issued.

9. This Agreement and the rights of the parties under this Agreement shall be governed by and construed in accordance with the laws of the State of Iowa, notwithstanding its conflicts of law rules. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled solely and exclusively by binding arbitration conducted in Cedar Rapids, Iowa in accordance with the then governing rules of the American Arbitration Association ("AAA"). The parties shall use reasonable efforts to appoint one (1) mutually acceptable arbitrator. If the parties cannot mutually agree on an arbitrator within thirty (30) days of the notice of arbitration, each party shall appoint one (1) arbitrator, and these two (2) arbitrators shall select a third. If the two (2) arbitrators fail to appoint a third arbitrator within fifteen (15) days after the appointment of the second arbitrator, then the third arbitrator shall be appointed by the AAA at the request of either party. Any decision resulting from such arbitration proceeding shall be final and binding upon the parties hereto without right of appeal. Judgment upon any such decision may be entered in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the fees incurred in arbitration, and the parties shall share the costs of the arbitration proceeding equally.

10. If Excel closes, transfers, or sells all of the hog slaughter operations, Excel shall have the right to terminate this Agreement upon sixty (60) day's notice.

**THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.**

Finisher warrants that he has read and understands this Agreement and acknowledges that this Agreement and the Exhibits hereto set forth the only agreement between Excel and Finisher. This Agreement supersedes any verbal or implied representation and can only be modified by written agreement signed by both parties.

**EXCEL CORPORATION**

\_\_\_\_\_  
(Finisher)

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ITS: \_\_\_\_\_

ITS: \_\_\_\_\_

**EXHIBIT A**  
**FARROWERS**

**EXHIBIT B**  
**HOG PURCHASE CONFIRMATION AND CONTRACT**

**EXHIBIT C**  
**CARCASS MERIT PROGRAM**



**EXHIBIT D**  
**FIG.NET BASE MATRIX**